

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

VENISE THERESA GONYA, as representative )  
of the Estate of Joseph E. Gonya, deceased )  
individually and on behalf of all others similarly )  
situated.; ROXANNE S. SCAIFE, as )  
representative of the Estate of Arnold L. Stone, )  
deceased, individually and on behalf of all others )  
similarly situated, ) CIVIL ACTION NO. C-04-221-SM  
)  
)  
Plaintiffs, ) STATUS REPORT  
)  
vs. )  
)  
ROGER A. SEVIGNY, Commissioner of the ) [CLASS ACTION]  
State of New Hampshire Insurance Department, )  
in his official capacity as Insurance Commissioner )  
and liquidator of The Home Insurance Company, )  
)  
Defendant. )  
\_\_\_\_\_  
)

NOW COME Venise Theresa Gonya and Roxane S. Scaife, Plaintiffs in the above-entitled matter, by and through their attorneys, Watson & Lemire, P.A. TO APPRISE THIS Court of the status of the parallel proceedings in the Merrimack County Superior Court in the related matter of Gonya, et al. v. Sevigny, Docket No. 04-E-0208.

1. The Plaintiffs commenced this action challenging the constitutionality of RSA 402-C:40(I) under the United States Constitution. Plaintiffs simultaneously filed a similar action, by way of a Petition in Equity for Permanent and Temporary Injunctive Relief in the Merrimack County Superior Court, challenging the constitutionality of the statute under the New Hampshire Constitution.

2. On August 6, 2004 Judge Steven J. McAuliffe entered an order granting Plaintiffs' Assented-to Motion to Stay Case Pending Resolution of State Court Case.

2. Pursuant to an Agreement entered in the state court proceedings, the parties filed an agreed-upon stipulation of facts on September 15, 2004; cross-motions for summary judgment on October 15, 2004; and responses to the summary judgment motions on November 1, 2004. Judge Kathleen A. McGuire of the Merrimack County Superior Court heard oral argument on the cross-motions for summary judgment on November 5, 2004.

3. On February 11, 2005 Judge McGuire entered an order granting Defendant's Motion for Summary Judgment and denying Plaintiffs' Cross-Motion for Summary Judgment.

4. On March 1, 2005 Plaintiffs are filing with the New Hampshire Supreme Court a Rule 7 Notice of Mandatory Appeal of Judge McGuire's order.

5. While the appeal is pending, the Plaintiffs are desirous of proceeding with the instant action and request that the stay be lifted and a status conference scheduled as the Court's docket allows.

Dated: March 1, 2005

Respectfully submitted,  
Venice Theresa Gonya and  
Roxanne S. Scaife, Plaintiffs  
By their attorneys  
WATSON & LEMIRE, P.A.

By: /s/ Thomas R. Watson

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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Status Report was on this date served on Daniel J. Mullen, Esquire, Associate Attorney General, counsel for Defendants, by Electronic Case Filing.

Dated: March 1, 2005

/s/ Thomas R. Watson  
Thomas R. Watson, Esq.